

MONTANA LEGISLATIVE HISTORY

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Chapter 345 1975

Bill H 179 S _____ Original bill & history ✓ c

H. Committee on Local Govt

Hearing Date(s) Feb 01 ✓ c

Feb 19 ✓ c

_____ c

_____ c

Date Out _____ c

S. Committee on Local Govt

Hearing Date(s) Mar 11 ✓ c

Mar 12 ✓ c

Mar 18 ✓ c

_____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

House BILL NO. 129 *Heck*

INTRODUCED BY *Sanford* *Bygon* *McG* *Diener*

Mark *McLain* *Lockron* *Hendall* *Holmes*
A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE POWERS
AND LIMITATIONS THEREON OF THOSE LOCAL GOVERNMENT UNITS
WHICH ADOPT THE SELF-GOVERNMENT POWERS AUTHORIZED BY ARTICLE
XI, SECTION 6 OF THE MONTANA CONSTITUTION AND PROVIDING FOR
A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. There is a new R.C.M. Title 47A, Part 7,
that reads as follows:

PART 7, CHAPTER 1, POWERS OF SELF-GOVERNMENT LOCAL
GOVERNMENTS.

47A-7-101. Self-government powers. As provided by
Article XI, section 6 of the Montana constitution a local
government unit with self-government powers may exercise any
power not prohibited by the constitution, law, or charter.
These powers include, but are not limited to, the powers
granted to general power governments by Title 47A, Part 5.

47A-7-102. Authorization for self-government services
and functions. A local government with self-government
powers may provide any services or perform any functions not
expressly prohibited by the Montana constitution, state law,
or its charter. These services and functions include, but

are not limited to, those services and functions which
general power government units are authorized to provide or
perform by Title 47A, Part 6.

47A-7-103. General power government limitations not
applicable. A local government unit with self-government
powers which elects to provide a service or perform a
function that may also be provided or performed by a general
power government unit is not subject to any limitation in
the provision of that service or performance of that
function, except such limitations as are contained in its
charter or in state law specifically applicable to
self-government units.

47A-7-104. Legislative power vested in legislative
bodies. The powers of a self-government unit unless
otherwise specifically provided are vested in the local
government legislative body and may be exercised only by
ordinance or resolution.

47A-7-105. State law applicable. All state statutes
shall be applicable to self-government local units until
superceded by ordinance or resolution in the manner and
subject to the limitations provided in this Title.

47A-7-106. Construction of self-government
powers. The powers and authority of a local government unit
with self-government powers shall be liberally construed.
Every reasonable doubt as to the existence of a local

INTRODUCED BILL

HB 129

1 government power or authority shall be resolved in favor of
2 the existence of that power or authority.

3 PART 7, CHAPTER 2, LIMITATIONS ON SELF-GOVERNMENT
4 LOCAL GOVERNMENTS.

5 474-7-201. Powers derived of a local government unit
6 with self-government power is prohibited the exercise of
7 the following:

8 (1) Any power that applies to or affects any private
9 or civil relationship, except as an incident to the exercise
10 of an independent self-government power;

11 (2) Any power that applies to or affects the
12 provisions of Title 41 (labor), chapter 13 of Title 59
13 (collective bargaining for public employees), Title 37
14 (unemployment compensation), or Title 92 (workmen's
15 compensation) except that subject to the provisions of those
16 titles it may exercise any power with regard to its
17 employees;

18 (3) Any power that applies to or affects the public
19 school system except that a local unit may impose an
20 assessment reasonably related to the cost of any service or
21 special benefit provided by the unit and shall exercise any
22 power which it is required by law to exercise regarding the
23 public school system;

24 (4) Any power that applies to or affects any
25 determination by a state agency with regard to the grant or

1 denial of a certificate of public convenience and necessity
2 or which establishes any rate or price;

3 (5) Any power that applies to or affects any
4 determination of the state department of lands with regard
5 to any mining plan, permit, or contract;

6 (6) Any power that applies to or affects any
7 determination by the department of natural resources and
8 conservation with regard to a certificate of environmental
9 compatibility and public need;

10 (7) Any power that defines as an offense conduct made
11 criminal by state statute, or which defines an offense as a
12 felony, or which fixes the penalty or sentence for a
13 misdemeanor in excess of a fine of five hundred dollars
14 (\$500) or six (6) months imprisonment or both such fine and
15 imprisonment, except as specifically authorized by statute;

16 (8) Any power that applies to or affects the right to
17 keep or bear arms, except that it has the power to regulate
18 the carrying of concealed weapons;

19 (9) Any power that applies to or affects a public
20 employee's pension or retirement rights as established by
21 state law, except that a local government may establish
22 additional pension or retirement systems;

23 (10) Any power that applies to or affects the
24 standards of professional or occupational competence
25 established pursuant to Title 66, (professions and

1 occupations) as prerequisites to the carrying on of a
2 profession or occupation.

3 47A-7-202. Powers requiring delegation. A local
4 government unit operating with self-government powers is
5 prohibited the exercise of the following powers unless the
6 power is specifically delegated by law:

7 (1) The power to authorize a tax on income or the sale
8 of goods or services. This section shall not be construed
9 to limit the authority of a local government to levy any
10 other tax or establish the rate of any other tax or to
11 impose an assessment reasonably related to the cost of any
12 service or special benefit provided by the local government;

13 (2) The power to regulate private activity beyond its
14 geographic limits;

15 (3) The power to impose a duty on another unit of
16 local government, except that nothing in this limitation
17 shall affect the right of a self-government unit to enter
18 into and enforce an agreement on inter-local cooperation;

19 (4) The power to exercise any judicial function,
20 except as an incident to the exercise of an independent
21 self-government administrative power.

22 47A-7-203. Consistency with state regulation
23 required. (1) A local government with self-government
24 powers is prohibited the exercise of any power in a manner
25 inconsistent with state law or administrative regulation in

1 any area affirmatively subjected by law to state regulation
2 or control.

3 (2) The exercise of a power is inconsistent with state
4 law or regulation if it establishes standards or
5 requirements which are lower or less stringent than those
6 imposed by state law or regulation.

7 (3) An area is affirmatively subjected to state
8 control if a state agency or officer is directed to
9 establish administrative rules and regulations governing the
10 matter or if enforcement of standards or requirements
11 established by statute is vested in a state officer or
12 agency.

13 47A-7-204. Mandatory provisions. A local government
14 unit with self-government powers is subject to the following
15 provisions. These provisions are a prohibition on the
16 self-government unit acting other than as provided:

17 (1) Part 2 of Title 47A, (Local Government Formation).

18 (2) Part 3 of Title 47A, Chapter 1, (Government Study
19 Commissions).

20 (3) Part 3 of Title 47A, Chapter 3, (Commission
21 Organization and Procedures).

22 (4) Part 3 of Title 47A, Chapter 6, (Election Code).

23 (5) Part 4 of Title 47A, Chapter 2, (Community
24 Planning, Land Use Control Services).

25 (6) Part 3 of Title 47A, (Duties of Local Governments

HB 171

1 As Agent of the State).

2 (7) Part 9 of Title 47A, (Local Government Finances).

3 (8) Chapter 99 of Title 93, (Eminent Domain).

4 Section 1. Severability clause. If any part of this
5 act is invalid, all valid parts that are severable from the
6 invalid part remain in effect. If a part of this act is
7 invalid in one or more of its applications, the part remains
8 in effect in all valid applications that are severable from
9 the invalid applications.

10 Section 2. Effective date. This act is effective May
11 2, 1977.

-End-

FEBRUARY 1, 1975
PROCEEDINGS OF THE JOINT HEARING
HOUSE AND SENATE LOCAL GOVERNMENT COMMITTEES

A joint hearing of the Senate and House Local Government Committees was called to order by Senate Chairman Romney in the House Chambers of the State Capitol Building at 10:00 A.M.

Roll call: All members of the House Committee on Local Government were present with the exception of Representative Bertelsen who was excused.

Senator Romney explained the purpose of the joint hearing was to hear testimony on House Bills 176, 177, and 179.

Senator Romney introduced Rep. Gerke, Chairman of the House Local Government Committee, and turned the hearing over to him. Rep. Gerke advised those present that the hearing was being taped.

Chairman Gerke introduced the following members of the State Commission on Local Government:

Harold A. Fryslie, City Manager, city of Bozeman, who spoke on the history of the commission and the preparation that went into the drafting of the legislation.

Senator C. R. Thiessen, District No. 27, spoke on the purpose of the study and goals.

Chairman Gerke advised those present of the ground rules for the hearing and opened it for testimony.

PROPOSERS TO HOUSE BILLS 176, 177, AND 179

John Toole, Chairman of the Missoula Local Study Commission, spoke in support and presented a list of local government bodies also supporting the legislation.

Dan Mizner, Executive Director, Montana League of Cities and Towns, noted this study is of national interest throughout the U.S.

Mike Micone, Mayor, city of Butte, said these bill will allow local government to determine the destiny of our cities.

Al Thelen, City Manager, Helena, spoke and left written testimony - exhibit 1.

Richard Thomas, City Manager, city of Great Falls, asked if they are giving enough home rule to cities in House Bill No. 179.

Dean Zinnecker, Executive Director, Montana Association of Counties spoke and left prepared testimony and amendments - exhibit 2.

Dale Skaalure, County Commissioner, Chouteau County, endorsed the amendments presented by the Montana Association of Counties, and said there should be a possible means to raise the funds for local government services.

Dorothy Eck, State-Local Coordinator, Office of the Governor.

Mary Hempleman, League of Women Voters of Montana, had questions on the ballots in House Bill No. 177, and noted concern for adequate revenue - exhibit 3.

Peter Koehn, Bureau of Governmental Research, Missoula, spoke in support of the legislation.

Michael Pichette, Montana Democratic Party, spoke in support. Mirrell H. Klundt, County Clerk & Recorder, Yellowstone County, was concerned with ballot and election provisions in HB 177 - exhibit 4.

Chuck Sterill, Executive Vice President Billings Chamber of Commerce.

Nancy Leifer, a citizen of Montana, stated there is a great need for study and understanding of Montana's local government. The three bills provide the framework necessary to carry out the spirit of local government review and particularly supports the section of HB 177 which provides that copies of the final reports of the study commission be sent to all qualified voters.

John Bell, Clerk & Records Assoc., said they endorse Dean Zinnecker's comments and that there are several inconsistencies with election and term of office provisions.

Robert VanDeVere, disagreed with Thelen about election days and thought it would save money if all elections were on the same day.

Jan Gerke, Helena Women's Political Caucus, was concerned with section 16 in HB 177 as it does not provide election in 1975 - exhibit 5.

Dr. Esplin, Great Falls, was concerned with parts of HB 177 dealing with elected officials if alternative form of government was selected and section 18.

John Petelin, City of Anaconda Study Commission.

Marie Tierney, Chairman, Cascade County Study Commission, spoke and presented statement and proposed amendments - exhibit 6.

OPPONENTS TO HOUSE BILLS 176, 177 AND 179

Charley Mahoney, Clancy, said he was not in opposition of the bills but spoke on HB 179 and questioned how much is given to local government.

John T. Lewis, Boulder Study Commission.

ANY AMENDMENTS TO HOUSE BILLS 176, 177 OR 179

George Kurkowski, City of Miles City Study Commission, did not see how any local government can be "self governing" if it has no fiscal power. He felt that the bill should be amended to provide local governments with authority to tax incomes and/or the sale of goods or services i.e., delete line 7 and 8, page 5, HB 179.

Elmer Frame, County Study Commission, Missoula, amendment to HB 179 - exhibit 7.

Nancy Orr, Missoula County Study Commission, amendments to HB 177 - exhibit 8.

Hugh Brown, representing the Dept. of Fish and Game, amendment to HB 179 - exhibit 9.

George Harper, Helena City Local Government Study Commission,
amendments to HB 177 and 179 - exhibit 10.

Amendments to HB 176, 177 and 179 recommended by the State
Commission on Local Government at their January 21, 1975
meeting were presented - exhibit 11.

The following people left sign statements or written testimony or
amendments:

Robert L. Deschamps, attorney, statement from the Montana County
Attorneys Assoc. - exhibit 12.

Penny Egan, Lewis and Clark County Local Government Study
Commission, statement - exhibit 13.

Virginia H. Blend, Great Falls, statement - exhibit 14.

Robert L. Anderson, Flathead County Study Commission, in support.

John D. Engebretson, Kalispell City Study Commission, supports
the bills in general, but oppose any amendments which would
limit the options of the local government.

Lee H. McCartney, City of Havre Local Study Commission, in
support.

Frank O. Farrell, City of Butte Study Commission, in support.

Jo Ann Woodgerd, Secretary of State's Office, in support of
amendment to HB 177, section 16(2), page 39, to change the
dates for the special primary and general elections for
local government officials to February 8 and April 5 -
exhibit 15.

Tom Stott, Teton County Study Commission.

Carol Heald, Billings, in support.

Hardin E. Todd, Clerks of District Court, in support.

Chairman Gerke expressed appreciation on behalf of the Joint
Standing Committees and the State Commission on Local Government
to all those participating in the hearing.

The hearing adjourned at 12 noon.



Harold E. Gerke, Chairman



Yvonne Borgmann, Secretary

City manager Al Thelen

Let me first extend to you my appreciation for the opportunity to appear before this joint session today. I would also like to advise the members of the Joint Committee that City officials ~~far~~ are very grateful for the openness by which the State Study Commission handled their meetings and worked throughout the year. Since I live in Helena, it was my privilege to attend many of these meetings and they allowed us to participate freely in these discussions and we thank them for this courtesy.

The City governing body of Helena supports without exception House Bill 176 dealing with the forms of local government. Flexibility is the key word throughout the development of this bill and it certainly offers something for everybody and we recommend its adoption by your Joint Committees.

The City of Helena also supports House Bill 177 dealing with the procedures by which local government study commission will proceed with their work with one exception. That exception deals with the date on which the elections have been scheduled for the elected official in April of 1977.

We take exception to the holding of both the partisan and the non-partisan elections on the same date. This slight exception is taken because it is our belief that when you hold a partisan and non-partisan election on the same date you in fact have partisan elections. We point to the experience in Montana with the election of Supreme Court Judges for evidence of this position.

Montana has had a long history of non-partisan government at the City level.

It is apparent that we have decided that there is not a Democratic or Republican way to operate a City but have chosen to operate cities on a non-partisan basis. Nevertheless, we commend the Commission for allowing local governments to choose between partisan and non-partisan elections in the 1976 election on change in form.

We think it is ironic on the other hand, that once they have made this choice they are forced to have elections on the same day in 1977.

This matter has been discussed at length by the State Study Commission and in the meeting in December they adopted an amendment suggested by ~~the~~ the City of Helena to separate these elections. This was done ~~the~~ because it was discovered that there would be a non-partisan ~~the~~ school election one week after the scheduled election for the new governing bodies. However, I am told ~~that~~ at yesterday's meeting that the partisan elections were also moved to this combined date or the same date that the school elections have been previously scheduled for in 1977.

It is our contention that this happened because prime attention was given to county government in the State Commission Study with very little attention given to City government until the last month or two of their study.

The reason that the current date was chosen by the State Study Commission was to enable the commissioners elected in 1977 to have a chance to participate in the budget process for the fiscal year beginning in July of 1977. Under the current time table they would take office the first of May. We suggest to you that this would be too late for them to participate in any major budget decision and therefore the original time table was chosen on a false premise. We see no problem in either having the partisan or non-partisan election extended for at least sixty days.

It is our contention that a City could lose much more from the forced involvement of partisan politics into its affairs under House Bill 177 than it could ever gain from House Bills 176, 177 and 179. We respectfully request that you reconsider this election time table.

If the City Commission of Helena is very concerned about the restrictions imposed on local governments in House Bill 179 which is supposed to provide local self government to cities and counties.

the flexibility seems to be the key word in developing the ~~ixi~~ alternate forms bill, State restriction seems to be the key word in establishing the self-government bill. It seems ironic to us that these two approaches would be taken by the same staff and same study commission on ~~xx~~ very similar subjects.

It is our opinion that one of the reasons that there are ~~sox~~ many restrictions on local self government is that again the State Study Commission gave maximum attention to reforms and improvement in county government and minimum attention to City government and has suggested that these bills provide substantial improvements for local government. It is ~~improtant~~ for us to recognize that most of the improvements and advantages in these ~~Bills~~ ~~relates~~ to county government and not to city government. We certainly do not object to any of the improvements in county government but would not want ~~x~~ you to proceed on the basis that great reforms ~~were~~ being offered in local government.

"The Local Study Commission process has been described as a ~~parody~~ ^{parody} for local government" and as "the most significant thing that has ever happened to local government in Montana." City officials as well as State officials have misrepresented these bills because ~~he~~ we have used the term local government when we really should be using the term county government. There is some indication that this might have been intentional but in any event it is ~~importnat~~ important that we understand that these bills are not solving the major problems of local government.

The major problem of local government is the extent to which we have to use ~~xps~~ property taxes to finance our municipal functions. House Bill 179 which provides the ~~pwoer~~ ^{power} for local government does not provide any solutions for this problem. It ~~ad~~ does in fact, ignore the major problem of City government.

There is nothing in this bill that is bad, however, it does not go very far in solving City government problems and we suggest to you that consideration be given to liberalizing this bill.

The business of City government involves providing services to people the same as any service giving agency. In order to do this the most important ingrediant are:

People or employees and money.

The restrictions in House Bill 179 prohibit any flexibility on the part of City government in dealing with these two ingrediants.

If the restrictsions that are currently in House Bill 179 remain in that bill then the State government will have to continue to accept the responsibility for the quality and level of municipal services because the bill simply does not give the authority to local government officials to deal with these problems.

We had an opportunity to review the first 350 bills that were submitted to the current legislative session. In analyzing those bills, we found that 77 of them deal with local government problems. Only 8 of the 77 deal with matters of state-wide concern and the ~~and~~ other 69 deal with matters that relate to a specific city or a specific group. ^{of which} It would appear that both your time and our time could be better spent if the state government included something in House Bill 179 that would in fact, prohibit the State Legislature from acting on matters that were not state-wide in application where cities and counties have adopted the self-government powers. If some attention is not given to this problem, House Bill 179 will offer very little to City Government.

Thank you.

NAME Richard D. Thomas Bill No. 176
177
179
ADDRESS P.O. Box 1609 Great Falls Date 2/1/75
FROM DO YOU REPRESENT? City of Great Falls
SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Support with some reservations
in re: limitation of powers for cities
as set out in HB 179.

MONTANA ASSN. OF COUNTIES

TESTIMONY GIVEN TO THE JOINT LOCAL GOVERNMENT COMMITTEE HEARINGS ON
HB 176, 177 and 179

Mr. Chairman and Members of the Joint Local Government Committees:

We would like to take this opportunity to congratulate the State Commission on Local Government and their staff for the fine job they have done over the last year in preparing legislation on the voter review of local government and the studies they have conducted on the operation of local government.

The three bills being discussed this morning are generally very good in most all aspects they pertain to. HB 176, dealing with the alternative forms of local government that establishes most any option for local government that will be necessary in the future. We offer our support of the bill as introduced.

HB 177 establishes the procedures by which the study commissions must operate. We support most of the provisions in the bill, however, we do have two proposed amendments to this bill. The first amendment deals with the language on page 31, section 12, sub-section 4, beginning on line 18. The language in sub-section 4 will require the local study commissions to submit copies of their final report to each and every registered voter in the county. We submit that this is not a necessary expenditure of local moneys, and that the language is not necessary. We do agree, however, that the voters should be informed, therefore, our amendment will change the language to require the local study commissions to have reports available and to distribute those reports. However, it will not require the study commissions to submit them to every registered voter. For an example, other language in this legislation requires the summary of the plan of government to be printed in the newspaper for two weeks. We submit that the duplication outlined in the bill is a waste of the taxpayer dollar. The Montana Association of Counties has prepared 5,000 copies of a booklet entitled "Montana Counties on the Move . . ." You have all received a copy of that booklet. The final report of the local study commissions should be approximately the same size as that book and the cost to our Association exceeded \$10,000 for 5,000 copies, or in excess of \$2.00 per book. We do not believe this expenditure is necessary by the local study commissions. Less than 20% of the voting public would ever read the report and that 20% that does read the report should have access to the report. Our amendment to the bill will provide that access and still save the taxpayer a substantial sum of money.

The second amendment we propose to HB 177 deals with section sub-section 2 on page 38. The language proposed in the legislation provides that, if an optional form of government is adopted by the voters the present elected officials will terminate automatically on May 1, 1971. The only exception allowed in the bill is the county commissioner that was elected under the old constitution. We do not believe that the

language in the bill is justified, since the elected officials ran for term of office in the last campaign. Our amendment proposes that those people elected to the governing body be allowed to finish out their term on the board of the new governing body. All the other elected officials would be allowed to serve out their terms also, except that they would serve, basically, at the pleasure of the person or body administering the new form of government. In other words, if the voters in a county adopted a county-manager form of government, the clerk and recorder in that county would serve for at least two years under that county manager. We believe this amendment would provide two essential aspects in the voter review process. First, it would provide more continuity of government than would be possible if those officials were terminated immediately. Secondly, it should reduce the amount of opposition to a new form of government and possibly raise the chances of success for home-rule government being approved by the voters. The delegates to the constitutional convention in 1972 recognized this problem in the new constitution. In doing so, they provided a transitional schedule allowing the elected officials to remain in office even though that office may have been terminated by the new constitution. We believe that this legislature should also recognize the necessity of this amendment.

The final bill, HB 179, is probably the most important bill that will be considered by this legislative session. HB 179 provides restrictions on local government powers, under a home-rule, or charter form of government. We believe the limitations placed in the bill are generally necessary and reasonable. However, there is one provision in the bill we do not agree with, nor do we endorse. We believe that on page 5, sub-section 1, beginning on line 7 should be deleted in its entirety. This sub-section limits the ability of local government to finance themselves under the home-rule concept. We ask you, "How can you have home-rule, without the ability to finance that home-rule?" Restricting a local government to the property tax is not providing any of the essential needs for taxation flexibility. Let me quote from a policy statement adopted by the Montana Association of Counties at our last annual convention. "The property tax has become burdensome to all property owners in Montana, yet it is not adequate to support the demand for education and public assistance, therefore, we call upon the state legislature and state administration to explore other avenues of taxation that may be submitted to the electors with alternative forms of government." The argument may be raised that the income tax, or even possibly sales tax, should be reserved to the state for a means of financing. Members of the committee, we submit that the income tax and sales tax, as well as the property tax, are the primary forms of finance for all levels of government. The property tax has not been reserved to local government for finance; the income tax is not reserved to the State of Montana as finance, since the federal government uses it. All options should be available to a home-rule government if they are to be able to establish the necessary services demanded by their local citizens. Cost of administration will be another argument against allowing more flexibility for financing local governments. At the present time, we believe local governments would not utilize the sales tax because of that cost. However, in future years a means to reduce that amount of cost may be available. With regards to the income tax, I would hope

State of Montana to piggy-back an income tax on to the state income, therefore, reducing the cost of administration, but, yet, meeting all needs, not necessarily state needs. State revenue sharing will undoubtedly be mentioned during this legislative session. The problem in state revenue sharing is, in most cases, your taking from rural areas to finance an urban area. Our belief is that if an urban area requires additional revenue, they should be given the flexibility to obtain that revenue from the local citizens who are demanding the local service.

Members of the committee, we thank you for the opportunity to make these comments and request that our proposed amendments to this legislation, and the legislation overall, be given due consideration and be given "Do Pass".

Thank You.

Montana Association of Counties

1000 NORTH 10TH AVENUE

BOZEMAN, MONTANA 59701

PROPOSED AMENDMENT TO HB 179

Amend House Bill 179 of the introduced copy, on page 5, Section 47A-7-202, subsection (1), beginning on line 7, by deleting subsection (1) in its entirety and renumbering the following sections accordingly.

STATE PROGRAM - *LWW of Montana*

Local Government - The Constitution of the State of Montana should:

- Allow local governments to assume any powers not specifically denied them by the Constitution or law.
- Grant units of local governments the option of adopting charters subject to approval of the legislature and ratification by the voters.

State-Local Relations

The structural goals are:

- To achieve orderly community growth.
- To adjust governmental structures and services to best fit particular areas and needs.

Means to achieve these goals are:

- Interlocal cooperation.
- Support of Interlocal Cooperation Commissions in Montana Counties.
- City County Planning.
- Improved annexation laws which balance the interests of the central city and the fringe areas, and are subject to judicial review.
- Advisory and planning services from the state level.
- Support of a legislative survey of the extent and control of special districts performing single, local services.

The financial goals are:

- Adequate revenue sources for local governments to meet local needs including revenue sharing from the state government.
- Equitable and efficient administration of the property tax.

HR176 FORMS BILL-Flexible - permits local government to fit local needs
 HR177 PROCEDURES BILL - p.34, C. How many precincts in Bear Creek?
 HR179 POWERS BILL - Too many restrictive amendments to this bill could undo intent of self-government.
 Plea for adequate revenue sources for local government to be truly self-governing. If State legislature retains the power of the purse, local government remains dependent.

*compliments
 the State Commission
 (staff) for faithfully
 translating the spirit of
 Montana's Constitution
 into statute.*

*Mary Hempleman
 President - LWW of Montana
 1100 Ave. B, N.W.
 Great Falls, Montana*

EXHIBIT 5

February 1, 1975

Re: House Bills 179, 176, 177

Committee: Local Government

Concerning House Bills 179 and 176, we would oppose any amendments that that would unduly restrict the local study commissions. Each local commission must be in a position to decide the form of government and options uniquely applicable to that area.

Concerning House Bill 177, there are two parts in Section 16.5115.13 which cause us considerable unease. Part 1 requiring no elections in 1975 for the commission-manager form of government and part 5, carrying over elected officials of one government to another. We feel that these need serious consideration.

Jan Gerke
Helena Women's Political Caucus
Jan Gerke
1014 Cherry
Helena, MT 59601

General - The Missoula County Study Commission would like to see the people have the right to whatever is best for them, and at their direction. If the Study Commission is restricted in any way the people will not have the right to say no, or yes, for that matter.

The Missoula County Study Commission does not endorse any type of sales tax or local income tax. We do, however, have faith that the people will vote down any tax that they do not wish to have imposed upon them, likewise they should have that choice just as they will have a choice of which governmental structure they wish to be governed under.

The Missoula County Study Commission would like to see 47A-7-202 amended as underlined below.

47A-7-202. Powers requiring delegation. A local government unit operating with self-government powers is prohibited the exercise of the following powers unless the power is specifically delegated by law:

(1) The power to authorize a tax on income or the sale of goods or services, unless approved by a vote of the people at a general election. This section shall not be construed to limit the authority of a local government to levy any other tax or establish the rate of any other tax or to impose an assessment reasonably related to the cost of any service or special benefit provided by the local government;

Amend House Bill No. 179, introduced (white) as follows:

1. Amend page 5, section 1, line 2, add:

"(11) Any power that applies to or affects Title 26 (fish and game), chapter 10 of Title 53 (snowmobiles), chapter 3 (state parks) and chapter 4 (development of outdoor recreational resources) of Title 62, chapter 35 of Title 69 (motorboat and vessel regulation) and chapter 25 of Title 81 (preservation of antiquities)."

EXHIBIT 10

172

177

179

Bill No.

NAME

George Hanger

ADDRESS

Helena, Box 1080

Date

WHOM DO YOU REPRESENT?

Helena City Local Government Sta
Commission

SUPPORT

☒

OPPOSE

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Favor:

176

177

179

with amendments:

177

Page 30

Number(1).

Line 4

— change Aug.
to Oct. 1

179

to liberalize the power of
taxation available to local
units. - possibly to allow
taxes on income, sales &

HOUSE BILL 179

POWERS BILL

SUGGESTED AMENDMENTS

1. Amend page 3, Section 1, line 15-16,
Following: "of"
Strike: "those titles"
Insert: "state law"
Following: "power"
Insert: "of a public employer"
2. Amend page 5, Section 1, line 4,
Following: "unit"
Strike: "operating"
3. Amend page 5, Section 1, line 10-12,
Following: "any other tax"
Strike: "or to impose an assessment reasonably related to
the cost of any service or special benefit provided
by the local government."

Lewis and Clark County Local Government Study Commission

VALIER, CHAIRMAN
EGAN, VICE-CHAIRMAN
CAMPBELL, SEC. TREAS.
BOETTGER
DONALDSON

OFFICE: CITY HALL ANNEX

38 S. LAST CHANCE GULCH
TELEPHONE NO. 442-0812
MICHELLE STEARNS, SEC.
SANDRA WHITNEY, RESEARCH ASST.

February 1, 1975

My name is Penny Egan representing the Lewis and Clark County Local Government Study Commission.

Our commission has sent letters to the House and Senate Local Government Committees expressing our wholehearted support of HB 176 and 177. We were particularly impressed with HB 176 because of its flexibility and the many options it offers local communities. We would like those letters entered into the hearing testimony.

We did not send a letter regarding HB 179 because we knew the taxation section was undergoing revision. Our commission wanted time to study the final draft. The Lewis and Clark County Commission has voted to support HB 179 with the reservation that we would like to see the possibility of more taxing authority granted to units of Local Government. We support the concept that local people will know what taxes would be most useful and acceptable to the local community. We believe that this is in keeping with many choices offered in HB 176. Despite our reservation, and because of the many strong features of HB 179, we do urge its passage.

Representative Harold Gereke, Chm.

& Members of the House Local Government Committee Great Falls, Mt. 59405
and January 30, 1975

Senator Miles Romney, Chm.

& Members of the Senate Local Government Committee

Montana State Legislature
Helena, Mt.

Re: Hearing on HBS #176, #177 and #179
February 17, 1975

My name is Virginia H. Blend. I was the vice-chairman of the Local Government Committee of the Montana Constitutional Convention. I was one of the developers of the "Voter Review" concept and fully support these three bills as they are written, without amendment. If clarification of semantics is necessary to eliminate doubt of interpretation within each bill, I would hope it would be accomplished by the Committees.

It was our mandate that each local government entity would review its present form of government; not that any committee, commission or group would make a decision on this point whether it would go through the process or not.

Regarding the word "Alternative(s)" and/or options: If you have read the minutes of our local government committee, you will learn that it included (1) putting the present form on the ballot, or (2) the present form with alterations and changes, or (3) at least one new form, to give the voters the opportunity to vote their opinions. I perhaps should have said above "and/or".

It was the thinking of the local government committee that we did not want to mandate that every local government body change its form of government, but only that it review the one it had in depth, and offer alternatives. What the end result would be is immaterial, if the needs of the local entity are met and are satisfactory to the citizens. In my opinion the above numbered bills meet this criteria fully and satisfactorily.

I hear rumors of amendments to allow local government entities to tax with specific measures. I would remind you, Gentlemen and Ladies, that the sole purpose for the existence of local government is to provide services as required by the people, to be collected as FEES; I do not believe local government entities are sophisticated enough, nor have the experts and facilities to enter into the field of taxation. It is the state's responsibility to monitor local government, and is the taxing entity, and it should remain that way. There is another bill in the Legislature this year allowing local government to maintain capital accounts; I think this should be looked upon favorably, but the funds therein should be from economy in the fees collected, not the authority of local government to tax to secure these accounts.

The history of local government nationally and in Montana up to this time has been a piecemeal affair by legislatures to accommodate requests from individual local governments with little thought to the effect of this "self-interest" law on the rest of local government. This is your opportunity to establish a broad-based basic form of government for local government that has built-in options to suit each local government entity. The research going into these three bills has been accomplished with much knowledge and competency - more in fact, than I feel has been given to most legislation since 1889.

NAME

Frank O'FarrellBill No. 176-177-178

ADDRESS

2101 So Oregon St

Date _____

WHOM DO YOU REPRESENT?

City of Butte Study Commission

SUPPORT

☒

OPPOSE

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

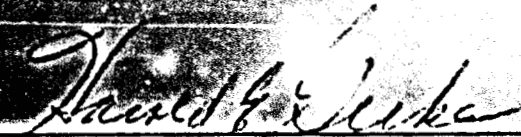
To The Honorable Legislative Committee on Local Government

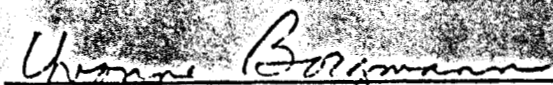
My name is Frank O'Farrell and I am acting as spokesman and member of the Local Study Commission from the City of Butte.

I am here to speak in favor of enactment of House Bills 176, 177, and 179. We have had the privilege of attending three or four seminars and study groups presented by the Commission on Local Government. Our feeling is, this group has researched and presented the proposed legislation that enables any city to implement a workable governmental body as specified in the newly adopted Montana Constitution.

HOUSE BILL 179: Representative South, Chairman of the subcommittee, reported most of the amendments were to clarify the bill as it was introduced. There was an amendment proposed by the Department of Fish and Game. Mr. Hugh Brown, representing the Department of Fish and Game was introduced and explained the proposed amendments regarding Title 62 and 26. After a brief discussion it was moved by Representative South, seconded by Representative Kendall, that the amendment for Title 26 only be adopted. (exhibit #1) Question was called. Motion carried. Those voting NO were: Representative Magone, Representative Sivertsen and Representative Gwynn. It was moved by Representative South, seconded by Representative Sivertsen, that House Bill 197 not be amended as it affects title 62, chapter 3. Motion carried unanimously. Amendments proposed by subcommittee were discussed. It was moved by Representative South, seconded by Representative Wyrick, for adoption of amendments as read. Question was called. Motion carried unanimously. It was moved by Representative South, seconded by Representative Kendall, that House Bill 179 DO PASS AS AMENDED. (exhibit #2) During the discussion, Mr. Gene Philips, Pacific Light and Power, and Mr. Bob Quinn, Montana Power Company, spoke on proposed amendments they would like considered. Representative Gwynn said they had discussed it in subcommittee and decided not to put the amendments in. Question was called. Motion carried unanimously. Representative Marks and Representative O'Connell were excused.

The meeting adjourned at 8:50 A.M.


Harold E. Gerke, Chairman


Yvonne Borgmann, Secretary

Amend House Bill No. 179, introduced (white) as follows:

1. Amend page 5, section 1, line 2, add:

"(11) Any power that applies to or affects Title 26
(fish and game)."

AMENDMENTS TO HB 179.

Be amended in the introduced bill as follows:

1. Amend page 3, section 1, lines 15 and 16.
Following: "of"
Strike: "those titles"
Insert: "state law"
2. Amend page 3, section 1, line 16.
Following: "power"
Insert: "of a public employer"
3. Amend page 5, section 1, following line 2.
Insert: "(11) Any power that applies to or affects Title 26 (fish and game)."
4. Amend page 5, section 1, line 4.
Following: "unit"
Strike: "operating"
5. Amend page 5, section 1, lines 10 through 12.
Following: "any other tax"
Strike: "or to impose an assessment reasonably related to the cost of any service or special benefit provided by the local government"
6. Amend page 6, section 1, lines 17 through 25 and page 7, lines 1 through 3.
Strike: all remaining material of 47A-7-204 including subsections (1) through (8).
Insert: (1) All state laws providing for the incorporation or disincorporation of cities and towns, for the annexation, disannexation or exclusion of territory from a city or town, for the creation, abandonment or boundary alteration of counties and for city-county consolidation;
(2) Title 16, Chapter 51;
(3) All laws establishing legislative procedures or requirements for units of local government;
(4) All laws regulating the election of local officials;
(5) All laws which require or regulate planning or zoning;
(6) Any law directing or requiring a local government or any officer or employee of a local government to carry out any function or provide any service;
(7) Any law regulating the budget, finance or borrowing procedures and powers of local governments, except that the mill levy limits established by state law shall not apply;
(8) Title 93, Chapter 99.

March 11

The thirty-seventh meeting of the Local Government Committee was called to order by Chairman Romney on the above date in Room 410 of the Capitol at 11:07 A.M.

ROLL CALL: All members were present with the exception of Senator Cetrone who was excused.

The following witnesses were present to testify at the meeting:

Representative Gerke, sponsor of HB 176 and 177
Dale Harris, Staff Director State Study Commission
Representative South, sponsor of HB 179 and HB 536
Penny Egan, Lewis & Clark County Study Commission
B. Dean Holmes, Mayor of Miles City
Dan Mizner, Montana League of Cities and Towns

CONSIDERATION OF HOUSE BILL 536: Dale Harris explained that HB 536 was allocation of funds to local study commissions which was set out by the 1974 Legislature. The funding will be used on a matching basis and will be used for whatever costs the commissions deem necessary to determine the best forms of alternate government to be submitted to the voters. Representatives Gerke and South reiterated what Mr. Harris had said. During the presentation it was pointed out that of the \$911,740 to be allocated, \$52,500 was discretionary funding on the part of the commissions but \$859,200 was automatically given to them.

Penny Egan and Dean Holmes supported the bill.

There were no opponents.

The Committee questioned the witnesses briefly.

CONSIDERATION OF HOUSE BILL 176: Chairman Romney offered witnesses further chance to testify for or against this bill but no one spoke.

CONSIDERATION OF HOUSE BILL 177: Again Chairman Romney offered witnesses further chance to speak on this bill but again no one spoke.

CONSIDERATION OF HOUSE BILL 179: Representative South explained that on page 6, line 16 through page 8 there were some changes referring vaguely to future laws that might be enacted with the adoption of new forms of local government. He stated that at this point they could not be specific but there had to be some reference to said laws, hence, those particular amendments. He also explained that on page 3, lines 16 and 17 there is an amendment which was put on in the House

NAME: Edward W. Nelson DATE: 3-11-75

ADDRESS: 1706 - 9th Ave.

PHONE: 442-2130

REPRESENTING WHOM? Maitland Taxpayers Assoc.

APPEARING ON WHICH PROPOSAL: HB. 179

DO YOU: SUPPORT? AMEND? X OPPOSE?

COMMENTS: Suggest some Local option framework

for Local Taxation. With option for

Local Taxpayers to approve or disapprove.

Do not believe present exclusions permit

Local government control.

NAME: Ray Blehm DATE: March 11, 1975

ADDRESS: 823 Ave B

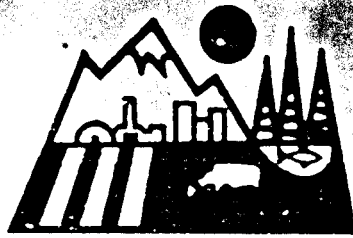
PHONE: 252-7051

REPRESENTING WHOM? Montana Firemen's Assn

APPEARING ON WHICH PROPOSAL: HB 179

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: I feel that the bill should
stand in the form in which it
was passed out of the house
and should not be changed
back as is proposed.



Lucas E.

MONTANA CHAMBER OF COMMERCE

P. O. BOX 1730

• HELENA, MONTANA 59601

• PHONE 442-2405

March 11, 1975

AMENDMENT FOR HOUSE BILL 179

Presented to the Senate Committee on Local Government

PAGE 2, Part 7, Chapter 1, Title 47A-7-102. Amend on line 1, page 2, change the period to a comma and insert--

"however, no such service or function may involve the purchase, condemnation, or competition with any privately owned business providing such service or function without the prior specific approval of the legislature."



Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59601

LUNDY SHOPPING CENTER
MISSOULA HIGHWAY

March 10, 1975

Honorable Miles Romney, Chairman
Senate Local Government Committee
State Capitol
Helena, Montana 59601

Dear Senator Romney:

The Montana State AFL-CIO is writing today to inform you and your Senate colleagues of our support of House Bill 179 which separates and delegates certain powers of government.

Reservation of powers under the Constitution is as old as the founding of the nation. The concept has been proven right in the operation of government at the federal level, and we believe it will be proven again if the bill before you is adopted.

The specific prohibition and reservations of certain powers to the state contained in the bill are a reasonable limitation on local autonomy and work no hardship on local government. They also insure relatively uniform practices and procedures, eliminating problems of confusing local ordinances that vary from community to community.

Therefore, Mr. Chairman, we ask the committee to approve House Bill 179 and hope that the full Senate will concur in the bill.

Sincerely,

James W. Murry, Executive Secretary
Montana State AFL-CIO

JWM:js

cc: All members of the Montana State Senate

HB 179

CLARIFY LABOR RESTRICTIONS

Amend: Page 3, section 47A-7-201 (2), line 17.

Strike: "State Law"

Insert: "those titles"

*Representative
South*

CONSIDERATION OF HOUSE BILL 179: Representative South explained that his bill sets powers and limitations for the proposed new forms of government. He offered an amendment to his bill. i.e. Amend page 2, Section 47A-7-201 (2), line 17. by striking "State Law" and inserting "those titles" (Exhibit D) B. Dean Holmes, Mayor of Miles City, urged adoption of Representative South's amendment. Richard Thomas of Great Falls supported this bill as written. Tom Winsor from the Montana Chamber of Commerce offered an amendment to the bill which would specify the local governments could not infringe upon private enterprise (Exhibit E) Ray Blehm supported the bill the way it was printed when it came from the House. Ed Nelson suggested there be an amendment regarding taxation powers by local government. He felt there was in fact no local governmental control without revenue generating powers. Dean Zinnecker supported Representative South's amendment but voiced concern over the taxation area. He suggested on Page 5, line 10 striking limiting language and inserting following "services" the language "without a vote". Dan Mizner supported Representative South's amendment and supported the bill but added he did not like the taxation limitation. Alice Campbell of Missoula stated she thought each governmental unit should be allowed to decide for themselves whether they wanted taxation powers. Al Sampson stated he felt there should be some safeguards for police and firemen regarding hiring and firing procedures. Dale Harris replied that that under this bill would become an area for local control. Mr. Gorman, Chairman of Broadwater County Study Commission, voiced the opinion there should be a statewide vote on taxation powers.

ADJOURN: The meeting was adjourned at 12:50 P.M. with the hearing to be continued tomorrow at 11:00 A.M.


MILES ROMNEY, Chairman

MR:dg

Exhibits A-E

Attached is a list of guests who did not testify.

by the Local Government Committee which is more restrictive than old language. Under old language the meaning was vague and could be applied to any labor law anyone would pass here.

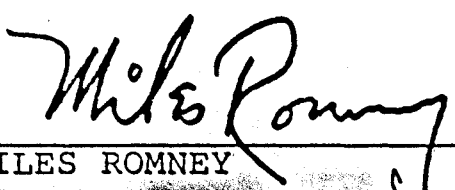
There were questions from the Committee.

GENERAL DISCUSSION: At this point there was some general discussion of all bills. This discussion will be continued tomorrow on a more specific basis but the Committee did vote to not accept amendment proposed by John Bell.

DISPOSITION OF BILLS:

House Bill 536: Senator Thiessen made a motion that HB 536 BE CONCURRED IN. Seconded by Senator Murphy. Motion carried.

ADJOURN: There being no further business, the meeting was adjourned at 12:05 P.M.


MILES ROMNEY

MR:dg

The Committee voted to not adopt the first two amendments Motion carried. The Committee voted to adopt the second two amendments. Motion carried.

Senator Thiessen made a motion that HB 177 AS AMENDED, BE CONCURRED IN. Seconded by Senator McCallum. Motion carried.

House Bill 179: Senator Goodover made a motion to adopt the following amendment:

Amend page 3, section 1, line 17.

Following: "titles"

Strike: "STATE LAW"

Insert: "those titles"

Seconded by Senator Thiessen. Motion carried.

Senator Cetrone made a motion that the following amendment be not adopted:

Amend page 2, line 1

Strike: "."

Insert: "; any service or function involving the purchase or condemnation of, or competition with any privately owned business providing such service or function except those services or functions provided by the local government on the effective date of this act without the prior specific approval of the legislature"

Seconded by Senator Thiessen. Motion carried.

Senator McCallum made a motion that the following amendments be adopted. Senator Cetrone made a substitute motion that they be not adopted. They are as follows:

Amend page 5, section 47A-7-202, line 24.

Following: "power."

Insert: "(5) The power to provide electric power, natural gas or manufactured gas."

Amend page 4, section 47A-7-202, line 24.

Following: "power."

Insert: "(5) The power to engage in any private business."

Seconded by Senator Watt. Motion carried.

Senator McCallum made a motion to adopt the following amendments:

Amend page 5, section 1, line 24.

Following: "power"

Strike: "."

Insert: ";"

Amend page 5, section 1, line 24.

Following: line 24

Insert: "(5) The power to regulate any form of gambling, lotteries, or gift enterprises."

Senator Story made a motion to adopt the following amendment:

Amend page 8, line 1.

Following: line 1

Insert: "(9) Title II--Chapter 18--Metropolitan Police Law
(10) Title II--Chapter 19--Fire Departments--
Fireman's Disability and Pension Fund.

Senator Thiessen made a substitute motion to not adopt this amendment. Seconded by Senator Cetrone. Motion carried.

Senator Murphy made a motion to not adopt the following amendments:

Amend page 5, section 1, lines 10 through 13.

Strike: Subsection (1) in its entirety.

Re-number: All subsequent subsections

Amend page 5, section 1, line 11.

Following: "services"

Insert: "without a prior authorization by an affirmative vote of a majority of the qualified electors of the local government unit voting on the question"

Seconded by Senator McCallum. Motion carried.

Senator Thiessen made a motion to adopt the following amendments:

Amend page 3, section 1, lines 25 and line 1 on page 4.

Following: "that"

Strike: "applies to or affects any determination by a state agency with regard to"

Insert: "prohibits"

Amend page 4, section 1, line 3.

Following: line 2

Strike: "or which establishes any rate or price"

Seconded by Senator Cetrone. Motion carried. Following amend-

Senator Thiessen made a motion that HB 179 AS AMENDED, BE CONCURRED IN. Seconded by Senator Goodover. Motion carried.

your committee on.....LOCAL GOVERNMENT.....

had under consideration.....HOUSE..... Bill No.....179..

fully report as follows: That.....HOUSE..... Bill No.....179,
d reading, be amended as follows:

Amend page 3, section 1, line 17. ~~STATE LAW~~
Following: "titles"
Strike: "STATE LAW"
Insert: "those titles"

Amend page 3, section 1, lines 25 and line 1 on page 4.
Following: "that"
Strike: "applies to or affects any determination by a state agency
with regard to"
Insert: "prohibits"

Amend page 4, section 1, line 3.
Following: line 2
Strike: "or which establishes any rate or price"

Amend page 4, section 1, line 3.
Following: line 3
Insert: "(5) Any power that establishes a rate or price otherwise
determined by a state agency;"

Renumber: All subsequent subsections

5. Amend page 5, section 1, line 24.
Following: "power"
Strike: "."
Insert: ";"
6. Amend page 5, section 1, line 24.
Following: line 24
Insert: "(5) The power to regulate any form of gambling,
lotteries, or gift enterprises."

AND AS SO AMENDED, BE CONCURRED IN

NILES ROMNEY, Chairman

MR:dg

Secretary

Not for

SENATE COMMITTEE LOCAL GOVERNMENT

Date March 18, 1975 House Bill No. 179 Time 7:27 p.m.

NAME	YES	NO
V. E. CETRONE, VICE CHAIRMAN	✓	
TERRY MURPHY	✓	
CORNIE R. THIESSEN	✓	
ROBERT D. WATT		
PAT M. GOODOVER	✓	
GEORGE McCALLUM	✓	
PETER STORY	✓	
MILES ROMNEY, CHAIRMAN	✓	

Alanna Livi
Secretary

Miles Romney
Chairman

Motion: Accept Amendment page 3, line 17.

Motion by Goodover, 2nd by Thiessen

MOTION CARRIED

NO

SENATE COMMITTEE LOCAL GOVERNMENT

Date March 18, 1975 House Bill No. 179 Time 9:30 p.m.

NAME	YES	NO
V. E. CETRONE, VICE CHAIRMAN	✓	
TERRY MURPHY	✓	
CORNIE R. THIESSEN	✓	
ROBERT D. WATT	✓	
PAT M. GOODOVER	✓	
GEORGE McCALLUM		
PETER STORY		✓
MILES ROMNEY, CHAIRMAN	✓	

Michael Lewis
Secretary

Miles Romney
Chairman

Motion: do that accept Amendment (Change of Commerce
in page 2 line 1. Motion by Cetrone. 2d by
Thiesse. MOTION CARRIED

(include enough information on motion--put with yellow copy of

SENATE COMMITTEE LOCAL GOVERNMENT

Date March 18, 1975 Ill. sec. Bill No. 179 Time 9:12

NAME	YES	NO
V. E. CETRONE, VICE CHAIRMAN	☒	☐
TERRY MURPHY	☒	☐
CORNIE R. THIESSEN	☒	☐
ROBERT D. WATT	☒	☐
PAT M. GOODOVER	☐	☒
GEORGE McCALLUM	☐	☒
PETER STORY	☐	☒
MILES ROMNEY, CHAIRMAN	☒	☐
	☐	☐
	☐	☐
	☐	☐
	☐	☐

Mickna Cuccia
Secretary

Miles Romney
Chairman

Motion: Substitute Motion
No for Receipt of Amendment to Page 5 - Lines
2d. Motion by Cetrone, 2nd by Mr. MOTTON
CARRIED.

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE LOCAL GOVERNMENT

at March 18, 1975 Fla. Bill No. 179 Time 9:45

NAME	YES	NO
J. E. CETRONE, VICE CHAIRMAN		✓
MERRY MURPHY	✓	
ORNIE R. THIESSEN		✓
ROBERT D. WATT	✓	
AT M. GOODOVER		✓
GEORGE McCALLUM	✓	
ETER STORY	✓	
ILES ROMNEY, CHAIRMAN	✓	

Vianna Lee
Secretary

Wiles Romney
Chairman

tion: Adopt Amendment to pages 5, line 34
following "Motion by McCallum. 2nd by
Cetrone. MOTION CARRIED

NATE COMMITTEE LOCAL GOVERNMENT

to March 18, 1975 Flower Bill No. 179 Time 9:57

NAME	YES	NO
J. E. CETRONE, VICE CHAIRMAN		
TERRY MURPHY	✓	
BORNIE R. THIESSEN		✓
ROBERT D. WATT	✓	
PAT M. GOODOVER	✓	
GEORGE McCALLUM	✓	
PETER STORY	✓	
MILES ROMNEY, CHAIRMAN	✓	

Alanna Cici
Secretary

Miles Romney
Chairman

Motion: Not to Accept Amendments to pages
lines 11-15. Motion by Murphy and by
McCallum. MOTION CARRIED

SENATE COMMITTEE LOCAL GOVERNMENT

Date March 18, 1975 House Bill No. 179 Time 9:50 am.

NAME	YES	NO
V. E. CETRONE, VICE CHAIRMAN	☒	
TERRY MURPHY	☒	
CORNIE R. THIESSEN	☒	
ROBERT D. WATT	☒	
PAT M. GOODOVER	☒	
GEORGE McCALLUM		☒
PETER STORY		☒
MILES ROMNEY, CHAIRMAN	☒	

Shirley Lee
Secretary

Miles Romney
Chairman

Motion: Substitute Motion Not to Adopt Amendment
to pages 8 and 1. Motion by Shirley Lee by
Roll call. MOTION CARRIED

NATE COMMITTEE LOCAL GOVERNMENT

Date March 18, 1975 House Bill No. 179 Time 12:07

NAME	YES	NO
V. E. CETRONE, VICE CHAIRMAN	☒	
BERRY MURPHY		☒
BORNIE R. THIESSEN	☒	
ROBERT D. WATT	☒	
PAT M. GOODOVER	☒	
GEORGE McCALLUM	<i>absent</i>	
PETER STORY	☒	
MILES ROMNEY, CHAIRMAN	☒	

Marissa Keri Secretary Miles Romney Chairman

Motion: Adapt Amendment on page 3 line 25
line page 4 line 1, and page 4 line 2
Motion by Thiessen, 2d by Thiessen.
MOTION CARRIED

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE LOCAL GOVERNMENT

Date March 18, 1975 Place House Bill No. 179 Time 10:09

NAME	YES	NO
V. E. CETRONE, VICE CHAIRMAN	☒	☐
TERRY MURPHY	☒	☐
CORNIE R. THIESSEN	☒	☐
ROBERT D. WATT	☒	☐
PAT M. GOODOVER	☒	☐
GEORGE McCALLUM	☒	☐
PETER STORY	☒	☐
MILES ROMNEY, CHAIRMAN	☒	☐
	☐	☐
	☐	☐
	☐	☐
	☐	☐
	☐	☐

Alicia A. Kline
Secretary

Miles Romney
Chairman

Motion: As Amended Re-Introduced in
motion by Thiesse, 2d by Goodover
MOTION CARRIED

HOUSE BILL NO. 179

INTRODUCED BY SOUTH, GWYNN, MELOY, DRISCOLL, GERKE, MARKS,
MCKITTRICK, LOCKREM, KENDALL, HOLMES

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE POWERS
AND LIMITATIONS THEREON OF THOSE LOCAL GOVERNMENT UNITS
WHICH ADOPT THE SELF-GOVERNMENT POWERS AUTHORIZED BY ARTICLE
XI, SECTION 6 OF THE MONTANA CONSTITUTION AND PROVIDING FOR
A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. There is a new R.C.M. Title 47A, Part 7,
that reads as follows:

PART 7, CHAPTER 1

POWERS OF SELF-GOVERNMENT LOCAL GOVERNMENTS

47A-7-101. Self-government powers. As provided by
Article XI, section 6 of the Montana constitution a local
government unit with self-government powers may exercise any
power not prohibited by the constitution, law, or charter.
These powers include, but are not limited to, the powers
granted to general power governments by Title 47A, Part 5.

47A-7-102. Authorization for self-government services
and functions. A local government with self-government
powers may provide any services or perform any functions not
expressly prohibited by the Montana constitution, state law,

or its charter. These services and functions include, but
are not limited to, those services and functions which
general power government units are authorized to provide or
perform by Title 47A, Part 6.

47A-7-103. General power government limitations not
applicable. A local government unit with self-government
powers which elects to provide a service or perform a
function that may also be provided or performed by a general
power government unit is not subject to any limitation in
the provision of that service or performance of that
function, except such limitations as are contained in its
charter or in state law specifically applicable to
self-government units.

47A-7-104. Legislative power vested in legislative
bodies. The powers of a self-government unit unless
otherwise specifically provided are vested in the local
government legislative body and may be exercised only by
ordinance or resolution.

47A-7-105. State law applicable. All state statutes
shall be applicable to self-government local units until
superseded by ordinance or resolution in the manner and
subject to the limitations provided in this Title.

47A-7-106. Construction of self-government powers. The
powers and authority of a local government unit with
self-government powers shall be liberally construed. Every

REFERENCE BILL

reasonable doubt as to the existence of a local government power or authority shall be resolved in favor of the existence of that power or authority.

PART 7, CHAPTER 2

LIMITATIONS ON SELF-GOVERNMENT LOCAL GOVERNMENTS

47A-7-201. Powers denied. A local government unit with self-government powers is prohibited the exercise of the following:

(1) Any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;

(2) Any power that applies to or affects the provisions of Title 41 (labor), chapter 16 of Title 59 (collective bargaining for public employees), Title 87 (unemployment compensation), or Title 92 (workmen's compensation) except that subject to the provisions of ~~those titles~~ STATE-LAW THOSE TITLES it may exercise any power OF A PUBLIC EMPLOYER with regard to its employees;

(3) Any power that applies to or affects the public school system except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power which it is required by law to exercise regarding the public school system;

(4) Any power that ~~applies--to--or--affects--any~~

~~determination-by-a-state-agency-with-regard-to~~ PROHIBITS the grant or denial of a certificate of public convenience and necessity ~~or-which-establishes-any-rate-or-price;~~

(5) ANY POWER THAT ESTABLISHES A RATE OR PRICE OTHERWISE DETERMINED BY A STATE AGENCY;

~~(5)~~ (6) Any power that applies to or affects any determination of the state department of lands with regard to any mining plan, permit, or contract;

~~(6)~~ (7) Any power that applies to or affects any determination by the department of natural resources and conservation with regard to a certificate of environmental compatibility and public need;

~~(7)~~ (8) Any power that defines as an offense conduct made criminal by state statute, or which defines an offense as a felony, or which fixes the penalty or sentence for a misdemeanor in excess of a fine of five hundred dollars (\$500) or six ~~(6)~~ months imprisonment or both such fine and imprisonment, except as specifically authorized by statute;

~~(8)~~ (9) Any power that applies to or affects the right to keep or bear arms, except that it has the power to regulate the carrying of concealed weapons;

~~(9)~~ (10) Any power that applies to or affects a public employee's pension or retirement rights as established by state law, except that a local government may establish additional pension or retirement systems;

~~(11)~~ (11) Any power that applies to or affects the standards of professional or occupational competence established pursuant to Title 66, (professions and occupations) as prerequisites to the carrying on of a profession or occupation.

~~(11)~~ (12) ANY POWER THAT APPLIES TO OR AFFECTS TITLE 26 (FISH AND GAME).

47A-7-202. Powers requiring delegation. A local government unit ~~operating~~ with self-government powers is prohibited the exercise of the following powers unless the power is specifically delegated by law:

(1) The power to authorize a tax on income or the sale of goods or services. This section shall not be construed to limit the authority of a local government to levy any other tax or establish the rate of any other tax ~~or--to impose--an--assessment-reasonably-related-to-the-cost-of-any service-or-special-benefit-provided-by-the-local-government;~~

(2) The power to regulate private activity beyond its geographic limits;

(3) The power to impose a duty on another unit of local government, except that nothing in this limitation shall affect the right of a self-government unit to enter into and enforce an agreement on inter-local cooperation;

(4) The power to exercise any judicial function, except as an incident to the exercise of an independent

self-government administrative power;

(5) THE POWER TO REGULATE ANY FORM OF GAMBLING, LOTTERIES, OR GIFT ENTERPRISES.

47A-7-203. Consistency with state regulation required.

(1) A local government with self-government powers is prohibited the exercise of any power in a manner inconsistent with state law or administrative regulation in any area affirmatively subjected by law to state regulation or control.

(2) The exercise of a power is inconsistent with state law or regulation if it establishes standards or requirements which are lower or less stringent than those imposed by state law or regulation.

(3) An area is affirmatively subjected to state control if a state agency or officer is directed to establish administrative rules and regulations governing the matter or if enforcement of standards or requirements established by statute is vested in a state officer or agency.

47A-7-204. Mandatory provisions. A local government unit with self-government powers is subject to the following provisions. These provisions are a prohibition on the self-government unit acting other than as provided:

~~(1)--Part-2-of-Title-47A7--(Local-Government-Formation)--~~

~~(2)--Part-3-of-Title-47A7--Chapter-17--(Government--Study~~

1 ~~Commissions};~~

2 ~~{3}--Part--3--of--Title--47A--Chapter--3--{Commission~~
3 ~~Organization-and-Procedures};~~

4 ~~{4}--Part--3--of--Title--47A--Chapter--6--{Election-Code};~~

5 ~~{5}--Part--4--of--Title--47A--Chapter--2--{Community~~
6 ~~Planning-and-Use-Control-Services};~~

7 ~~{6}--Part--8--of--Title--47A--{Duties-of-Local-Governments~~
8 ~~As-Agent-of-the-State};~~

9 ~~{7}--Part--9--of--Title--47A--{Local-Government--Finances};~~

10 ~~{8}--Chapter--99--of--Title--93--{Eminent-Domain};~~

11 (1) ALL STATE LAWS PROVIDING FOR THE INCORPORATION OR
12 DISINCORPORATION OF CITIES AND TOWNS, FOR THE ANNEXATION,
13 DISANNEXATION OR EXCLUSION OF TERRITORY FROM A CITY OR TOWN,
14 FOR THE CREATION, ABANDONMENT OR BOUNDARY ALTERATION OF
15 COUNTIES AND FOR CITY-COUNTY CONSOLIDATION;

16 (2) TITLE 16, CHAPTER 51;

17 (3) ALL LAWS ESTABLISHING LEGISLATIVE PROCEDURES OR
18 REQUIREMENTS FOR UNITS OF LOCAL GOVERNMENT;

19 (4) ALL LAWS REGULATING THE ELECTION OF LOCAL
20 OFFICIALS;

21 (5) ALL LAWS WHICH REQUIRE OR REGULATE PLANNING OR
22 ZONING;

23 (6) ANY LAW DIRECTING OR REQUIRING A LOCAL GOVERNMENT
24 OR ANY OFFICER OR EMPLOYEE OF A LOCAL GOVERNMENT TO CARRY
25 OUT ANY FUNCTION OR PROVIDE ANY SERVICE;

1 (7) ANY LAW REGULATING THE BUDGET, FINANCE OR
2 BORROWING PROCEDURES AND POWERS OF LOCAL GOVERNMENTS, EXCEPT
3 THAT THE MILL LEVY LIMITS ESTABLISHED BY STATE LAW SHALL NOT
4 APPLY;

5 (8) TITLE 93, CHAPTER 99.

6 Section 2. Severability clause. If any part of this
7 act is invalid, all valid parts that are severable from the
8 invalid part remain in effect. If a part of this act is
9 invalid in one or more of its applications, the part remains
10 in effect in all valid applications that are severable from
11 the invalid applications.

12 Section 3. Effective date. This act is effective May
13 2, 1977.

-End-